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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ISABEL NUNEZ,

Plaintiff,

vs.

REHABCARE GROUP EAST, INC., ROE  
CORPORATIONS I through X, inclusive;  
and DOES I through X, inclusive,

Defendants.

**PLAINTIFF'S COMPLAINT  
(Jury Demanded)**

COMES NOW PLAINTIFF, Isabel Nunez, and complains of Defendant, RehabCare Group East, Inc. (hereinafter "Defendant" or "RehabCare"), as follows:

**JURISDICTION AND VENUE**

1. This is a civil action for damages and injunctive relief to redress the deprivation of rights secured to Plaintiff, Isabel Nunez. This action comes under federal statutes prohibiting discrimination and retaliation, and to secure the protection of and to redress deprivation of rights under these laws and related tort claims.

2. Plaintiff ("Nunez" or "Plaintiff") has statutory claims arising under the Americans with Disabilities Act ("ADA"), as amended.

3. Ms. Nunez, the Plaintiff, asserts she was harassed, treated differently, subjected to a hostile work environment, and retaliated against in her employment because of her disability.

4. Ms. Nunez filed her Charge of Discrimination with the U.S. Equal Employment Opportunity Commission (EEOC) and signed her Charge of Discrimination on December 24, 2014, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference. Ms. Nunez

1 received a copy of the "Right to Sue" notice (dated April 11, 2016) based upon the charge, and therefore  
2 fulfilled all jurisdictional requirements for the filing of this suit. She has filed her lawsuit within 90 days  
3 of her receipt of the Right to Sue notice which was April 14, 2016.

4 5. Venue is proper in the District of Nevada pursuant to 28 U.S.C. § 1391(b) because the  
5 claimed unlawful employment practices were committed in and arose in the District of Nevada.

#### 6 THE PARTIES

7 6. Plaintiff, Ms. Nunez, at all times relevant to this Complaint, is a resident of Clark County,  
8 Nevada and at all times herein was employed by the Defendant, RehabCare, from January 2011 through  
9 July 2015.

10 7. As an employer in Nevada with over 500 employees, RehabCare is required to comply  
11 with all state and federal statutes which prohibit harassment, discrimination and retaliation because of  
12 disability.

13 8. DOE Defendants I through X, inclusive, and ROE CORPORATIONS, I through X,  
14 inclusive, are persons, corporations or business entities who are or which may also be responsible for  
15 or who directed or assisted in the wrongful actions of the named Defendants, or who may be individual  
16 officers or employees of the named Defendants. The true identities of the DOE Defendants and ROE  
17 CORPORATIONS are unknown to Plaintiff at this time. Plaintiff therefore alleges that DOES I-X,  
18 inclusive, and ROE CORPORATIONS I-X, inclusive, may be responsible in part for the damages or  
19 injuries suffered by Plaintiff as a result of their own wrongful actions and/or those of their agents and/or  
20 employees. Plaintiff will seek leave to amend this Complaint as soon as the true identities of DOE and  
21 ROE Defendants I-X, inclusive, are revealed to Plaintiff.

#### 22 FACTS

23 9. Ms. Nunez, began her employment with RehabCare in or about January 2011. She was  
24 a Speech Language Pathologist.

25 10. From the beginning of her employment, Ms. Nunez informed/disclosed her medical  
26 condition and that she would need a reasonable accommodation. She was able to work 4 days per week  
27 (32 hours/week). RehabCare provided her that accommodation.

28 11. In September 2014, Defendant RehabCare required Plaintiff Nunez to work 5 days/week.



1 If she failed to do so, her job would be advertised. Ms. Nunez needed her job, including its health  
2 insurance benefits, and advised her manager that she would return to work. However, she also advised  
3 the Corporate HR department about this change in her schedule.

4 12. Upon her return to work in October 2014, Plaintiff Nunez was given paperwork for her  
5 physician to complete to request an accommodation. Her manager had told her that 4 days/week was not  
6 an option because the caseload had increased. Plaintiff Nunez also became concerned about her job  
7 being given to someone else while she was on FMLA.

8 13. Thereafter, Plaintiff Nunez was subjected to mean-spirited comments from co-workers.  
9 Even parmesan cheese had been placed in her coat pocket making a disgusting mess. The harassment  
10 escalated to such an extent that derogatory texts about her were sent to her (in error). She understand  
11 then that her health matter had not even been kept confidential.

12 14. Ms. Nunez was more strictly scrutinized in her hours/timesheets. She always explained  
13 and was able to show that there was no wrongdoing. Other employees were not treated in this manner.

14 15. Ms. Nunez was also subjected to scrutiny concerning her sick days. Again, she reviewed  
15 the policy, noted the change, and felt that she was singled out for such scrutiny in light of her complaints  
16 about the disability and her request for an accommodation which was simply to remain at a 4 days/week  
17 schedule.

18 16. Ms. Nunez was further advised that the department could not be run around her doctors'  
19 appointments. On her previous 4 days/week schedule she had no problems scheduling doctors'  
20 appointments so as to avoid taking off work. With a 5 days/week schedule she was no longer able to  
21 do so.

22 17. On November 12, 2014, Ms. Nunez filed her charge of discrimination with the EEOC  
23 and signed the charge on December 24, 2014 stating both disability discrimination and retaliation.

24 18. Other instances include the added task that she had to inform her manager in person if  
25 she was going to leave the building. Previously this had never been the required policy in the  
26 department.

27 19. When Ms. Nunez applied for leave in January 2015 it was not allowed because she did  
28 not have sufficient PTO. Ms. Nunez had previously taken unpaid leave so that enough PTO would

1 accrue. Now, suddenly, it was not allowed. However, it seemed that this policy only applied to Ms.  
2 Nunez.

3 20. Ms. Nunez was also harassed about the completion of her accommodation forms. Then  
4 she was advised to complete the FMLA forms.

5 **FIRST CAUSE OF ACTION**

6 ***Disability Discrimination Under Federal Anti-Discrimination Statute***

7 21. Plaintiff, Ms. Nunez, repleads and realleges and incorporates herein by reference each  
8 and every allegation contained in paragraphs 1 through 20 above as if fully set forth.

9 22. Defendant RehabCare was aware of the conduct of its management employees  
10 and/or employees in engaging in harassing or discriminatory conduct toward Ms. Nunez.

11 23. Defendant RehabCare, as employer, knew or should have known of its long-standing  
12 obligation to maintain a workplace free of harassment and discrimination based on disability.

13 24. Defendant RehabCare failed to take reasonably adequate steps to prevent disability  
14 discrimination and harassment in its workplace.

15 25. Defendant RehabCare failed to institute effective institutional policies to remedy  
16 complaints about conduct which might constitute discrimination based on disability, including  
17 harassment.

18 **SECOND CAUSE OF ACTION**

19 ***Retaliation***

20 26. Plaintiff Nunez repleads and realleges and incorporates herein by reference each and  
21 every allegation contained in Paragraphs 1 through 25 above as if fully set forth.

22 27. Defendant RehabCare knew or should have known of its obligation to refrain from  
23 and prevent retaliatory acts against Plaintiff Ms. Nunez and RehabCare failed to do so.

24 28. Defendant RehabCare subjected Ms. Nunez to adverse terms and conditions of  
25 employment after she reported her claims of disability discrimination and retaliation, all of which  
26 constitute unlawful retaliation.

27 29. Defendant RehabCare retaliated against Ms. Nunez by not providing her reasonable  
28 accommodation for her disability creating a hostile work environment that resulted from its



1 retaliatory actions against her.

2 30. In addition, Defendant RehabCare failed to take immediate corrective action when it  
3 learned that Ms Nunez had suffered acts of retaliation by employees of Defendant RehabCare.

4 31. Ms. Nunez has also suffered serious mental distress as a result of this unlawful  
5 discrimination.

6 32. Ms. Nunez is entitled to be fully compensated for all damages she has sustained.

7 33. It has been necessary for Ms. Nunez to retain the services of an attorney and she  
8 should be compensated therefor.

9 **THIRD CAUSE OF ACTION**

10 ***Negligent Infliction of Emotional Distress***

11 34. Plaintiff, Ms. Nunez, repleads and realleges and incorporates herein by reference each  
12 and every allegation contained in paragraphs 1 through 33 above as if fully set forth.

13 35. Defendant RehabCare owed a duty to exercise due care not to subject Ms. Nunez  
14 to foreseeable risk of mental, emotional, and/or physical injury, and Defendant RehabCare knew or  
15 reasonably should have known that such acts and/or omissions of Defendant RehabCare as herein  
16 alleged, were likely to result in mental, emotional and/or physical injury to Ms. Nunez.

17 36. Defendant RehabCare, while engaging in the aforementioned conduct, did  
18 negligently inflict extreme mental and emotional distress, indignity, embarrassment, and humiliation  
19 upon Ms. Nunez.

20 37. As a direct and proximate result of the Defendant RehabCare's negligent  
21 infliction of such emotional distress, Ms. Nunez has suffered damages and she is entitled to recover  
22 compensatory damages and other damages related thereto.

23 38. It has been necessary for Ms. Nunez to retain the services of an attorney and she  
24 should be compensated therefor.

25 WHEREFORE, Plaintiff Isabel Nunez prays for the following relief:

- 26 1. A trial by jury on all issues;  
27 2. All employment-related losses including but not limited to back pay, front pay,  
28 benefits, and commissions subject to proof;

1           3.     All compensatory, special and general damages allowed by law;  
2           4.     Attorneys' fees and costs of suit incurred herein;  
3           5.     Prejudgment interest;  
4           6.     Punitive damages in an amount sufficient to punish and deter Defendant from  
5 engaging in any such conduct in the future and as an example to other employers not to engage in  
6 such conduct; and

7           7.     For such other and further relief as the Court shall deem just and proper.

8           Respectfully submitted this 12<sup>th</sup> day of July, 2016.

9  
10  
11 By: 

KRISTINA S. HOLMAN #3742  
703 S. Eighth Street  
Las Vegas, Nevada 89101  
Attorney for Plaintiff,  
Isabel Nunez



EEOC Form 5 (11/09)

<b>CHARGE OF DISCRIMINATION</b> This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC <span style="float: right;"><b>487-2015-00247</b></span>	
<b>Nevada Equal Rights Commission</b> and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) <b>Ms. Isabel Nunez</b>		Home Phone (Incl. Area Code) <span style="float: right;">Date of Birth</span> <b>(702)</b> <span style="float: right;">---</span>	
Street Address <span style="float: right;">City, State and ZIP Code</span> <b>Las Vegas, NV 89</b>			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>KINDRED HEALTHCARE</b>		No. Employees, Members <span style="float: right;">Phone No. (Include Area Code)</span> <b>500 or More</b> <span style="float: right;"><b>(702) 784-4300</b></span>	
Street Address <span style="float: right;">City, State and ZIP Code</span> <b>2250 E. Flamingo Road, Las Vegas, NV 89119</b>			
Name		No. Employees, Members <span style="float: right;">Phone No. (Include Area Code)</span>	
Street Address <span style="float: right;">City, State and ZIP Code</span>			
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div> <input type="checkbox"/> RACE    <input type="checkbox"/> COLOR    <input type="checkbox"/> SEX    <input type="checkbox"/> RELIGION    <input type="checkbox"/> NATIONAL ORIGIN  <input checked="" type="checkbox"/> RETALIATION    <input type="checkbox"/> AGE    <input checked="" type="checkbox"/> DISABILITY    <input type="checkbox"/> GENETIC INFORMATION  <input type="checkbox"/> OTHER (Specify)         </div> <div style="text-align: right;">           DATE(S) DISCRIMINATION TOOK PLACE            Earliest <span style="float: right;">Latest</span>  <span style="float: right;"><b>11-03-2014</b></span> </div> </div>		<input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>In or around January 2011, I was hired by the Respondent as a Speech Language Pathologist. My last job title was Speech Language Pathologist.</p> <p>In or around September 2014, I informed Respondent regarding my medical condition and need for a reasonable accommodation. There is an accommodation that would allow me to perform the essential functions of the job. Respondent failed to engage in the interactive process.</p> <p>On or about November 19, 2014, I was issued written discipline due to my disability.</p> <p>I believe I was discriminated against because of my disability, and in retaliation for engaging in protected activity, in violation of the Americans with Disabilities Act of 1990, as amended.</p>			

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.	NOTARY – When necessary for State and Local Agency Requirements  I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT <span style="float: right;"><b>RECEIVED</b></span>  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE <b>DEC 24 2014</b> (month, day, year)  EEOC/LVLO INTAKE
<div style="display: flex; justify-content: space-between;"> <div> <b>Dec 24, 2014</b>            Date         </div> <div>             Charging Party Signature         </div> </div>	

Exhibit "A"